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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,731	11/12/2003	Lyndon Shawn Dick	03-5383	9277

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EXAMINER

ARK, DARREN W

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/712,731

Applicant(s)

DICK, LYNDON SHAWN

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/12/2003</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hebard 2003/0029075.

Hebard discloses a rod (top rod); a handle (perpendicular part of U-shaped portion at lower end in Fig. 2) perpendicular to the rod; a looped hook removal end (top rod distal end); and a bite sleeve surrounding the rod (metallic tube or sleeve around to and bottom rods in Fig. 2).

3. Claims 1, 3, 5, 6-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wallace 3,011,286.

Wallace discloses a rod (20); a handle (22) perpendicular to the rod; a looped hook removal end (26); and a bite sleeve surrounding the rod (10).

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In regard to claims 6-9, the structure as presently recited is fully disclosed in the Wallace patent and it is inherent during fishing that the user would use the device as claimed in the method claims.

4. Claims 1, 2, 4, 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Swindle 4,914,853.

Swindle discloses a rod (1) with an angled portion (slight curve where 1 meets beginning of 10; see Fig. 6); a handle (3) perpendicular to the rod; a looped hook removal end (10) with a blunt end (5); and a bite sleeve surrounding the rod (7).

5. Claims 1, 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jones 3,451,157.

Jones discloses a rod (1, 8); a handle (3) perpendicular to the rod; a looped hook removal end (7); and a bite sleeve surrounding the rod (13).

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Biel 5,983,555.

Biel discloses a rod (18, 28a); a handle (26) perpendicular to the rod; a looped hook removal end (28b, c); and a bite sleeve surrounding the rod (16).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hebard 2003/0029075.

Hebard discloses the looped hook removal end being blunt (see Fig. 2) and the rod having an angled portion (connection between rod and hooked portion at distal end of top rod) above the looped hook removal end, but does not disclose the rod being made of steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rod out of steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because steel would provide a strong material which will not easily deform under high stress forces. *In re Leshin*, 125 USPQ 416.

In regard to claim 3, Hebard does not disclose the sleeve being plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because plastic is a very economical material that can be easily molded into many different colors and sizes. *In re Leshin*, 125 USPQ 416. Hebard also does not disclose the sleeve being at least half the length of the rod. It would have been an obvious matter of design choice to make the sleeve at least half the length of the rod, since applicant has not disclosed that by doing so produces any unexpected results or is critical to the design, and because by

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sizing the sleeve at least half the length of the rod would more positively guide the movement of the top and bottom rods together.

In regard to claim 4, Hebard discloses the handle being integral with the rod, but does not disclose the handle being welded to the rod. It would have been an obvious matter of design choice to weld the handle to the rod, since applicant has not disclosed that by doing so produces any unexpected results or is critical to the design, and because it appears that the hook removal device of Hebard would perform equally as well with the handle being welded to the rod.

9. Claims 2-4, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace 3,011,286.

Wallace discloses the rod made of brass or plastic, the looped hook removal end being blunt (see Fig. 2), and the rod having an angled portion (24; see Figs. 1, 3, 4) above the looped hook removal end, but does not disclose the rod being made of steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rod out of steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because steel would provide a strong material which will not easily deform under high stress forces. *In re Leshin*, 125 USPQ 416.

In regard to claim 4, Wallace discloses the handle being integral with the rod, but does not disclose the handle being welded to the rod. It would have been an obvious matter of design choice to weld the handle to the rod, since applicant has not disclosed

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that by doing so produces any unexpected results or is critical to the design, and because it appears that the hook removal device of Wallace would perform equally as well with the handled being welded to the rod.

In regard to claim 8, Wallace does not disclose the device being used on an animal which is either a turtle. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the hook remover of Wallace on a turtle since turtles are sometimes prone to becoming undesirably hooked on a hook intended to catch fish since turtles are capable of consuming bait intended for fish.

10. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones 3,451,157.

Jones discloses the rod made of metal, the looped hook removal end being blunt (see Fig. 2), and the rod having an angled portion (at 5, 6) above the looped hook removal end, but does not disclose the rod being made of steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rod out of steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because steel would provide a strong material which will not easily deform under high stress forces. *In re Leshin*, 125 USPQ 416.

In regard to claim 3, Jones does not disclose the sleeve being plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of plastic, since it has been held to be within the general

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skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because plastic is a very economical material that can be easily molded into many different colors and sizes. *In re Leshin*, 125 USPQ 416. Jones also does not disclose the sleeve being at least half the length of the rod. It would have been an obvious matter of design choice to make the sleeve at least half the length of the rod, since applicant has not disclosed that by doing so produces any unexpected results or is critical to the design, and because by sizing the sleeve at least half the length of the rod would more positively guide the movement of the top and bottom rods together.

In regard to claim 4, Jones discloses the handle being threaded (2) onto the rod, but does not disclose the handle being welded to the rod. It would have been an obvious matter of design choice to weld the handle to the rod, since applicant has not disclosed that by doing so produces any unexpected results or is critical to the design, and because it appears that the hook removal device of Wallace would perform equally as well with the handle being welded to the rod.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Biel 5,983,555.

Biel the looped hook removal end being blunt (see Fig. 2), and the rod having an angled portion (between 28a, c AND 28b; see Fig. 6) above the looped hook removal end, but does not disclose the rod being made of steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rod out of steel, since it has been held to be within the general skill of a worker in the art to



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select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because steel would provide a strong material which will not easily deform under high stress forces. *In re Leshin*, 125 USPQ 416.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA